

LAST EDITION.
DIVER FARCE
CONTINUES.
Lawyer Hale's Conduct of the
Police Justice's Trial Con-
vulses the Court.
WITNESSES MAKE GAME OF HIM
Signers of the Diver Charges Say
They Acted Without Per-
sonal Knowledge.
THE TRIAL MAY END TO-DAY.
Surrogate Rollins Promises to
Produce Morris Tokusky
At Once.

farce trial of Police Justice Diver was continued in the Court of Common Pleas this morning. A plea the court was called to order, but once Lawyer Hale arose, "I have no funds, if the Court please," said, "to carry on this case, and I call the Court to direct the District-Attorney to serve the subpoenas. I served attachment on the Sheriff at 9.10 this morning, calling for the body of one of the witnesses, Terence Kenny Tokusky, a bartender, but the Sheriff wants before doing anything, I—"

Under cross-examination by Mr. Rollins, Burroughs caused a laugh by saying that Mr. Hale had never served Kenny with a subpoena at all, but had instead served him with a notice to appear, which happened to be in the store. Mr. Hale was tired, but looked more when the surrogate asked him, "Is that the man you served?" asked Mr. Rollins, derisively.

"No," replied the Brooklyn lawyer, "it is not." Kenny, at once disappeared in the crowded court-room, and an instant later when his name was called, he did not appear. Every one in court roared with laughter, while Lawyer Hale got furious. He said a trick had been played on him, and Mr. Rollins replied that Kenny had a right to leave the court-room, as he understood Mr. Hale did not intend to serve him. Finally John Brady, a member of the Tammany Committee of the Second District, took the stand. He said he knew Diver, and had seen him frequently at district meetings. The lawyers wanted to know that Diver had publicly offered \$500 for the biggest vote drawn out in the district, but the witness knew nothing, and as case began to look like a farce.

Dennis McEvoy, another member of the same committee, testified that he knew Diver slightly, but never saw him press at a meeting. He knew nothing against Diver. Mr. Rollins brought out the fact that both witnesses had been subpoenaed last evening by Lawyer Hale, and asked no questions whatever. Martin J. Keefe, another member, gave similar testimony. He had heard Diver say on one occasion it was the duty of every member to bring out the largest vote possible.

"For what?" asked Mr. Hale. "To bring out a big Democratic vote," he presumed to answer. "That is what we were there for." On cross-examination, he said that Mr. Hale, in giving him the subpoena, called to give him the usual half dollar. Henry Campbell, the Vesey street tea merchant, who at one time testified before the Grand Jury that Diver had offered \$500 for a big vote, called to give Lawyer Hale then took a copy of the printed list of Tammany's General Committee of the Second District.



Modelled After Connecticut's Automatic Gallows. Patent Applied for by John W. Goff.

and began to call the names of nearly all on it, but neither Assemblyman Michael Callahan nor any one else answered. Mr. Rollins objected to the calling of the names, as he said none of the men had been properly subpoenaed. Mr. Hale explained that he was unable to serve the subpoena yesterday because Judge Bischoff said they were

defective, and he could not get the District-Attorney to act him. While Mr. Hale was talking, Terry Kenny again entered the court. He was a bartender for Tokusky at the time of the alleged assault, but he knew nothing about it, beyond that he knew nothing. Burroughs was then recalled and questioned, but nothing was brought out. He had seen no fight, only a boxing match just as friends might do.

Charles J. Auerth, who was Secretary of the Diver Club in 1893, denied that Diver had offered inducements for district caucuses to get out a big vote. This exhausted all of Mr. Hale's witnesses. One of them he admitted was in an insane asylum. He asked for a postponement in order to summon Tokusky and others. Ex-Surrogate Rollins protested against

an adjournment. He said that he had then in court three of the men for whom Hale claimed to be acting, and that they knew nothing whatever of the charges. They had simply signed the charges at Hale's request. "I have already been sworn," cried Hale, "and whether on or off oath my word is always true." Mr. Rollins said he would take the lawyers word, and the latter made his statement. Not only had he failed to serve Tokusky, but a private detective whom he employed also failed. On several visits, he said, he was stopped by bartenders from going upstairs to where Tokusky was hiding. After a consultation the Judges were inclined to adjourn the case for a week, but Mr. Rollins said he would wait all in his power to have Tokusky and the other relative witnesses on hand at once in order to have the case closed to-day. Mr. Rollins also said that in order to save time and while Mr. Hale was waiting for them, witnesses would be called for the defense.

THE AUTOMATIC VINDICATOR.
In fact by a trick, Lawyer Hale put the paper in his hand, but it was never read to him, nor did he know its contents. Chas. E. Sprague, another of the signers to the charges, admitted that he knew nothing personally of the allegations. He had made the charges because he believed it his duty to do so. Police Surgeon Charles E. Nammack, Diver's family physician, swore that young Diver, who was ill with pulmonary consumption, went to California in January, and that Judge Diver accompanied him at his suggestion. He admitted that any other member of the Diver family might have accompanied the sick son as well as his father. Mr. Rollins then admitted that Diver's alleged failure to properly attend to business was not due to any physical disability. Joseph Farley, clerk of the Jefferson Market Police Court, was called by Mr. Levy to show that the business of that court was not delayed by reason of Diver's absence in California. He testified accordingly, and that Judge alternated in holding court a week at the Court and the Special Session Judges sat continuously. Clerk James P. Keating, of Special Sessions, testified in the same strain. This class of testimony would be to show that if Diver stayed in California forever, his absence would not affect public business. Clerk James McCabe, of the Harlem Court, gave similar testimony. Recess was then taken until 2 o'clock.

MOTHER SAVES CHILDREN.
And There Was a Lively Scrambling from Windows.

NEWARK, N. J., Dec. 18.—The crying of a baby was the primary cause of a fire in a lodging-house at 130 Bank street, at an early hour this morning. Five of seven boarders jumped from as many windows, and Mrs. Annie Charles, who conducts the lodging-house also went through a window with her clothing. She smothered the burning clothing and found that beyond a burn on her wrist, she was all right. When the baby cried, Mrs. Charles went downstairs to see what was the matter. She found the baby in a basket on the stairs. The lamp exploded, spreading the burning oil over the carpet. Mrs. Charles ran to her bedroom, where her children under her arms and managed to get them safely into a rear yard. Another fire and the children were all safe. Mrs. Charles ran back into the burning building, yelling fire, knocking at the doors of her boarders' rooms. Unable to use the stairway and unable to climb through a window of a third floor, she went through a window of the next house and was let down through a scuttle. Edward Haines, a young man who lived in a room on the second floor, jumped from a front window and landed in a barrel half filled with oyster shells. He sprained his ankle. The loss will not exceed \$1,000.

ANOTHER FOOTBALL VICTIM.
Right Guard Young Dies from a Kick in the Head.
PHILADELPHIA, Dec. 18.—George S. Young, who played right guard for the Franklin football eleven, and who was injured on Nov. 30 in a game with another local eleven, is dead. At the time Young was injured he was given the ball to make a run, and was heavily fumbled, fumbling the ball, while reaching for it he was accidentally kicked in the head by a runner who was close behind him at the time. He was taken to his home and grew better, but later an abscess formed at the base of his brain, which resulted in his death.

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BULLDOZED BY BYRNES.
Marrett Says He Was Com-
pelled to Tell All About
the Gardner Case.
DECLARES IT WAS CONSPIRACY.
Inspectors Subpoenaed for To-Day
---Intermann Admits He Per-
jured Himself.

John Marrett, a former agent of the Society for the Prevention of Crime, testified before the Lexow Committee to-day, that Supt. Byrnes had compelled him, by threats, to tell all he knew about the Gardner case.

Gardner, who was Superintendent of the Society, was accused and convicted of having extorted money from Lillie Clifton, for protection from arrest. Marrett said he had never before attended a hearing of the Committee, and he put down his paper an eyed him curiously as he hunted about and finally took his seat on the bench with Senators Bradley and Robertson, who had already arrived. Senator Bradley afterwards went down and greeted the Inspector and Capt. Washburn, shaking hands with both very cordially.

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MAY STILL BE A RACE.
Ex-Commodore Smith Intimates
that There Is Yet Hope.
Dunraven Will Send a New Chal-

N. Y. Y. C. Committee Will Con-
sider Terms Outlined by Cable.

LONDON, Dec. 18.—In an interview with Richard Grant, Secretary of the Royal Yacht Squadron, he says: "I conferred with Lord Dunraven this morning in regard to the challenge for the America's Cup. He decided to give the New York Yacht Club another chance."

"Accordingly, I have just cabled the latter, stating the conditions under which we will race. If the conditions are accepted, we will challenge for the cup again." Mr. Grant, at the request of Lord Dunraven, came from Cowes to London yesterday evening. During the course of the interview Mr. Grant saw the Prince of Wales, who considered the America's Cup Committee's cablegram of Monday. At 11 o'clock to-day Mr. Grant had half an hour's conference with Lord Dunraven at the latter's house, and action was agreed upon.

Two cablegrams arrived in this city this morning. Both dealt with the bearing on the America's Cup challenge. One was received by ex-Commodore James D. Smith, Chairman of the Committee of the New York Yacht Club, and the other by Lord Dunraven's representative in this country. Commodore Smith's cablegram went to the New York Yacht Club, located at Madison avenue. The second cablegram was received by Lord Dunraven, who telephoned to the members of the Cup Committee, after instructing them to bring a challenge-gram to his office at 61 Wall street. Just after noon reached Commodore Smith's office a cablegram from the members of the Cup Committee. It was decided to hold the necessary talk to-morrow, and additional action was taken to all members of the Cup Committee. Commodore Smith was asked if the prospects for a race were good. His answer was emphatic. "I have always been of the opinion that there was a chance of our winning the cup," he said.

TO BE SHOT WITHOUT TRIAL.
Report that an Extradited Revolutionary Will Meet This Fate.
NUEVA LAREDO, Mexico, Dec. 18.—Gervasio Salas, the revolutionist, extradited from San Antonio, Texas, has been brought here, and it is understood that he will be taken out and shot without the formality of a trial. It is claimed that his guilt was firmly established in the extradition proceedings, and all that now remains to be done is to carry the law in such cases into effect.

China Refuses Passports for Russian Marines.
CHIEFO, Dec. 18.—An uneasy feeling still prevails here owing to the threats of the Chinese soldiers against the residents in the event of the Japanese forces succeeding in capturing Weihai-Wei. It is reported here that the Chinese authorities have refused to grant the passports asked for by the Russian Minister for a detachment of Russian marines intended to be sent to Peking in order to guard the Legation of Russia.

Cruiser Detroit's Commander Will Meet the Pope.
ROME, Dec. 18.—The commander of the United States cruiser Detroit has concluded arrangements for landing the Columbian exhibit, and has returned to Naples, where the warship is lying, to superintend the work. He will accompany the returned exhibit to Rome, after which he will be received in audience by the Pope.

Concession to Build Railroad Up Jungfrau Mountain.
BERNE, Switzerland, Dec. 18.—The Council of State has granted the concession asked for to build a railroad up the Jungfrau Mountain. The capital has been subscribed in America and in England.

The Case, It Is Reported, Will Be Away with the Secret Police.
LONDON, Dec. 18.—The correspondent of the Chronicle at St. Petersburg telegraphs that the case will probably cause the adoption of the Gregorian calendar in Russia, and abolish the secret police.

Assaulted at a Primary.
A serious row occurred at the election district primaries at 111 West Fifty-third street on the evening of Dec. 11. John Charlton, Junior, was assaulted in the hallway, and it is his room slightly injured. He will recover. The police were not informed until yesterday, when Dr. W. S. Watson, of 108 West Forty-seventh street, was called to the scene. Special Detective Thompson arrested Charles Heller, a saloon-keeper, in the Seventh avenue. Justice Meade ordered the hearing until to-morrow, holding Heller in bonds of \$5,000.

Weather Forecast.
The weather forecast for the 19th reads: At 3 P. M. to-morrow is as follows: Partly cloudy and showery, with occasional rain. Wind, variable, with gusts. Temperature, 40 to 50.

The following record shows the change in the temperature during the morning hours of the 18th: 7 A. M., 40; 8 A. M., 42; 9 A. M., 44; 10 A. M., 46; 11 A. M., 48; 12 M., 50; 1 P. M., 52; 2 P. M., 54; 3 P. M., 56; 4 P. M., 58; 5 P. M., 60; 6 P. M., 62; 7 P. M., 64; 8 P. M., 66; 9 P. M., 68; 10 P. M., 70; 11 P. M., 72; 12 M., 74.



INSPECTOR WILLIAM W. McLAUGHLIN.

Then the old and regular attendants at the hearings of the Committee began dropping in, one by one. Among them were William W. McLaughlin, Inspector of the Police, and John Kenyon, Secretary of the Police Pension Fund system.

Cross, Creeden and Westervelt.
Ex-Capt. Creeden and Capt. Westervelt were in citizens' dress. They greeted Inspector Williams enthusiastically and Cross sat down and chatted gayly with his former superior. Not long afterwards Capt. Creeden, also in citizen's dress, wandered in and as he passed Inspector Williams made a slight inclination of his head. The Inspector looked him full in the face with a story glance and never moved a muscle. Capt. Creeden sat down in the row further on.

Enter Capt. Strauss and His Wife.
The next arrival of note was Capt. Strauss, who was put on the stand yesterday, but soon dismissed and told to be on hand this morning with his wife. Mrs. Strauss, a stout woman with dark brown hair, wearing a broad-brimmed hat and a long black dress, accompanied her husband. Mr. Wright, who had promised to come, did not appear. The committee members were seated in the front of the room, and the witnesses were seated in the back. The hearing began at 10 o'clock.

Goff and Fellows Consult.
When Mr. Goff arrived Col. Fellows sought him out, and they had a long whispered conversation in which both showed great earnestness by their manner and gestures. Capt. O'Connor, of the Second Precinct, and ex-Capt. Killalea, were also in the array of police officials present, and they were joined shortly afterwards by Capt. McLaughlin, Murphy and Sgt. McLaughlin, of the Fifth Precinct.

Assistant District-Attorney Lindsay
joined the group at the counsel's table, and there was evidently a serious matter under discussion.

It was then after 11.30, and every one in the crowded room was on tiptoe with expectation.

"The Committee is ready as soon as you are, Mr. Goff," said the Chairman, a quarter of an hour from noon. Sena-

tor Marrett, a former agent of the Society for the Prevention of Crime, testified before the Lexow Committee to-day, that Supt. Byrnes had compelled him, by threats, to tell all he knew about the Gardner case.

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